IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C 10-3677 LHK (PR)
ORDER DENYING EX PARTE APPLICATION; DIRECTING
DEFENDANTS TO FILE
OPPOSITION TO PLAINTIFF'S
MOTION TO COMPEL
(Docket No. 38)

Plaintiff, a state prisoner proceeding *pro se*, filed an amended civil rights complaint pursuant to 42 U.S.C. § 1983 alleging that employees of the Lake County Sheriff's Department violated his constitutional rights. The Court ordered service upon named Defendants. On May 18, 2011, Defendants filed an ex parte application to vacate the Court's February 7, 2011 order of service. In the motion, Defendants note that the Court ordered them to file a motion for summary judgment or other dispositive motion within ninety days. Defendants argue that they filed a motion to dismiss on March 23, 2011, which is still pending, and believe that the motion to dismiss would dispose of some or all of the Defendants named in this action. Thus, argue Defendants, the ninety day deadline for filing a dispositive motion should be vacated.

Defendants' March 23, 2011 motion to dismiss is a dispositive motion. Thus, they have already complied with the ninety-day deadline imposed by the Court in its February 7, 2011 order. Accordingly, Defendants' ex parte application is DENIED.

Order Denying Ex Parte Application; Directing Defendants to File Opposition to Plaintiff's Motion to Compel P:\PRO-SE\SJ.LHK\CR.10\Sevey677misc.wpd

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On May 17, 2011, Plaintiff filed a motion to compel discovery. Defendants shall file, within thirty (30) days of the filing date of this order, an opposition to Plaintiff's motion to compel, or a notice that they have complied with Plaintiff's discovery requests. Plaintiff shall file his reply fifteen (15) days thereafter. This terminates docket number 38. y H. Koh IT IS SO ORDERED. DATED: <u>5/23/11</u> District Judge